

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF

IN RE COORDINATED BREAST  
IMPLANT LITIGATION

Case No.

(Related to JCCP 2754)

vs.

Plaintiff,

# COMPLAINT FOR DAMAGES, NOTICE RE COORDINATION AND ADOPTION OF MASTER COMPLAINT

Defendants.

PLAINTIFF COMPLAINS OF THE DEFENDANTS AND EACH OF THEM AS  
FOLLOWS:

1. Plaintiff refers to and incorporates herein by reference that certain Master Complaint filed in IN RE: COORDINATED BREAST IMPLANT LITIGATION, JCCP 2754, as though fully set forth herein.

2. Plaintiff sues the defendants listed and checked below for the causes of action checked below, as follows:

\_\_\_\_\_ Negligence against defendant \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Deceit against defendant \_\_\_\_\_.

1 \_\_\_\_\_ Strict product liability against defendant \_\_\_\_\_  
2 \_\_\_\_\_.  
3 \_\_\_\_\_ Breach of express warranty against defendant \_\_\_\_\_  
4 \_\_\_\_\_.  
5 \_\_\_\_\_ Breach of implied warranty against defendant \_\_\_\_\_  
6 \_\_\_\_\_.  
7 \_\_\_\_\_ Intentional infliction of emotional distress against defendant \_\_\_\_\_  
8 \_\_\_\_\_.  
9 \_\_\_\_\_ Market share liability against defendant \_\_\_\_\_  
10 \_\_\_\_\_.  
11 \_\_\_\_\_ Lack of informed consent — battery — against defendant<sup>1</sup> \_\_\_\_\_  
12 \_\_\_\_\_.  
13 \_\_\_\_\_ Medical negligence against defendant<sup>1</sup> \_\_\_\_\_  
14 \_\_\_\_\_.

14 WHEREUPON, PLAINTIFF PRAYS FOR JUDGMENT AS FOLLOWS:

15 \_\_\_\_\_ General damages in excess of the minimum jurisdictional amount of this court;  
16 \_\_\_\_\_ Special medical damages, according to proof;  
17 \_\_\_\_\_ Damages for loss of earnings and earning capacity, as to proof;  
18 \_\_\_\_\_ Exemplary and punitive damages against non-health care provider defendants in the sum of  
19 \$\_\_\_\_\_;<sup>2</sup>  
20 \_\_\_\_\_ Interest as allowed by law;  
21 \_\_\_\_\_ Costs of suit;  
22 \_\_\_\_\_ Such other and further relief as the Court deems just and proper.

23 Plaintiff alleges that the defendants listed below, whose names are checked, are liable to  
24 plaintiff(s) as set forth above:

25 \_\_\_\_\_  
26 \_\_\_\_\_

27 <sup>1</sup> Compliance with CCP §364 remains a condition precedent.

28 <sup>2</sup> Punitive and exemplary damage claims against health care providers require compliance with CCP §425.13.

1	_____ '21' FOAM COMPANY, INC.	_____ AESTHETECH CORPORATION
2	_____ '21' INTERNATIONAL	_____ AMERICAN HOSPITAL SUPPLY
	HOLDINGS, INC.	_____ APPLIED SILICONE CORPORATION
3	_____ ADMIRAL MATERIALS	_____ BAXTER HEALTHCARE, INC.
	CORPORATION	_____ MCGHAN MEDICAL CORPORATION
4	_____ BAXTER INTERNATIONAL, INC.	_____ MCGHAN NUSIL CORPORATION
	BIOMANUFACTURING, INC.	_____ MCGHAN, DONALD
5	_____ BIOPLASTY, INC.	_____ MEDICAL ENGINEERING
	BRISTOL-MYERS SQUIBB CO.	CORPORATION
6	_____ CABOT CORPORATION	_____ MEDICAL PRODUCTS, INC.
	CBI MEDICAL	_____ MEDICORE ORTHOPAEDIC, INC.
7	_____ CHEM CENTRAL CORPORATION	_____ MENTOR CORPORATION
	COOPER ENGINEERING CO.	_____ MENTOR POLYMER
8	_____ COOPERSURGICAL, INC.	TECHNOLOGIES
	COOPERVISION, INC.	_____ MINNESOTA MINING &
9	_____ CORNING, INC.	MANUFACTURING CO.
	COX-UPHOFF INTERNATIONAL	_____ NATURAL Y SURGICAL
10	_____ CUI CORPORATION	SPECIALTIES, INC.
	CV SUB 1987, INC.	_____ PETRARCH SYSTEMS
11	_____ CVI MERGER CORPORATION	_____ POLY-PLASTICS SILICONE
	DOW CORNING CORPORATION	PRODUCTS, INC.
12	_____ DOW CORNING WRIGHT	POLYMER TECHNOLOGIES
	CORPORATION	_____ RECTICEL FOAM CORP.
13	_____ DULANEY, DICK	_____ REITSMA, JAMES
	EDWARD WECK, INC.	_____ REPLICON LABORATORIES, INC.
14	_____ FARGIE, BILL	SCOTFOAM CORP.
	FOAMEX PRODUCTS, INC.	_____ SCOTT PAPER COMPANY
15	_____ FOAMEX, L.P.	SHAWN MCGUIRE
	GENERAL ELECTRIC COMPANY	_____ SIROD CORPORATION
16	_____ HEYER-SCHULTE, INC.	SURGITEK, INC.
	HULS AMERICA	_____ THE COOPER COMPANIES, INC.
17	_____ INAMED CORPORATION	_____ THE DOW CHEMICAL COMPANY
	INAMED DEVELOPMENT COMPANY	_____ UNION CARBIDE CHEMICALS &
18	_____ INTERNATIONAL SILICONE	PLASTICS CO.
	CORPORATION	_____ UNION CARBIDE CORPORATION
19	_____ KNOLL INTERNATIONAL	_____ UNION CARBIDE CORPORATION
	HOLDINGS, INC.	_____ UROPLASTY, INC.
20	_____ LONG, KIRK	_____ WALSH, WARD
	MARK/M RESOURCES, INC.	_____ WILSHIRE FOAM PRODUCTS, INC.
21	_____ MARKHAM MEDICAL	_____ WILSHIRE TECHNOLOGIES, INC.
	MARKHAM, HAROLD	_____ F-K-A WILSHIRE FOAM PRODUCTS
22	_____ MCGHAN INDUSTRIES	INC.

22 \_\_\_\_\_, M.D.  
 23 \_\_\_\_\_, M.D.  
 24 \_\_\_\_\_, M.D.

25 Plaintiff is a resident of the State of \_\_\_\_\_.

26 ///

27 ///

28 ///

1 Plaintiff alleges, based on information and belief, and without prejudice to the discovery of  
2 other, and perhaps different information at a later time, as follows (for each implant(s));<sup>3</sup>

3 Date of Implantation

Mfg./Brand of Implant

Lot No.

4  
5  
6  
7 NOTICE IS HEREBY GIVEN that plaintiff(s) herein is asserting a claim or claims for  
8 damages which generally involves breast implant devices and the component parts thereof, and that,  
9 accordingly, this case is eligible for state-wide coordination pursuant to Code of Civil Procedure,  
10 Section 404, et seq. and inclusion in Judicial Council Coordination Proceeding No. 2754, now  
11 pending before the Honorable Robert J. O'Neill, Judge of the Superior Court of the State of  
12 California for the County of San Diego. This case is not presently coordinated and is not the subject  
13 of the Joint Petition for Coordination filed by the product liability defendants.

14 \_\_\_\_\_ Plaintiff does not oppose coordination of this action.

15 \_\_\_\_\_ Plaintiff opposes coordination of this action pursuant to California Rules of Court, Rule  
16 1544, and requests the coordination court to schedule a hearing to determine the issue at its  
earliest convenience.

17 NOTICE IS ALSO GIVEN that pursuant to Code of Civil Procedure, Section 404.4, and by  
18 order of the coordination court, this action is ordered stayed, except for proceedings relating to  
19 coordination, until such time as the coordination court orders otherwise.

20  
21 DATED: \_\_\_\_\_, 1993

22  
23 \_\_\_\_\_  
24 Attorneys for Plaintiff

25  
26 \_\_\_\_\_  
27 <sup>3</sup> This information need not be provided if the Court's Coordination Questionnaire is  
28 filed concurrently with this Complaint. Otherwise, provide the information requested to the extent  
it is known to you.